IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

WP(C).No. 2811 of 2007(I)

PETITIONER:

M/S.CATHOLIC SYRIAN BANK LTD.,
REGISTERED OFFICE AT THRISSUR,
PERINNANAM BRANCH,
REP. BY IT'S BRANCH MANAGER, JOHN V.T.

BY ADV. SRI.C.A.JOY

RESPONDENTS:
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1. **P.N.RAJENDRA PRASAD,**
   S/O.NARAYANAN, POLAKULATH (H),
   LOKAMALESWARAM VILLAGE, KODUNGALLUR TALUK,
   TRISSUR.

2. **JINJU, S/O.P.N.RAJENDRA PRASAD,**
   POLAKULATH (H), LOKAMALESWARAM VILLAGE,
   KODUNGALLUR TALUK, TRISSUR.

3. **M.D.SANTHOSH, S/O.DIVAKARAN, MALIEKKAL VEEDU,**
   KANNAMBARA P.O, NEMMARA,
   PALAKKAD.

4. **ASSISTANT EXCISE COMMISSIONER, TRISSUR.**

5. **TAHASILDAR (RR), TALUK OFFICE,**
   KODUNGALLUR.

6. **THE DISTRICT COLLECTOR, TRISSUR**

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 2811 OF 2007

Dated this the 24th day of January, 2007

J U D G M E N T

The petitioner is a scheduled Bank. The 1st respondent availed overdraft facility from the petitioner mortgaging 70 cents of property belonging to him. The 2nd respondent is stated to be the guarantor who also created an equitable mortgage by deposit of title deeds with respect to 80 cents of property in Sy.No.55/1 and Sy.No.122/1 of Lokamaleswaram Village. The 5th respondent, Tahsildar proceeded to recover the amounts due by way of public revenue due on land by initiating proceedings under the Revenue Recovery Act and conducted a public auction. The amount is said to be due and payable from the defaultor-1st respondent herein towards some abkari dues. The property was sold and the petitioner contends that he has got first charge over the property and that the property can be sold only subject to the prior encumbrance if any in favour of the Bank and the Bank has advanced an amount of Rs.30,00,000/- to the defaultor. Along with interest, large amounts were due. Proceedings are also pending before the Debts Recovery Tribunal.

2. Petitioner has preferred Exhibit P3 claim petition before the District Collector raising his contentions. It is prayed that a direction be issued to consider Exhibit P3 before the sale is confirmed.

3. Heard the Government Pleader.

4. In the facts and circumstances, there will be a direction to the District Collector, Thrissur to consider Exhibit P3 on merits and dispose of the same in accordance with law. If the sale is not already confirmed, the confirmation will stand stayed till then. Petitioner shall be afforded an opportunity of being heard in the matter. Petitioner can also produce materials which he place reliance in support of his contentions.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp